REMARKS

General

Claims 1-66 were presented for examination. Of pending claims 1-66, six (6) claims 1, 18, 27, 34, 43, and 50 are independent.

In the current and final Office Action, claims 1-66 were examined. Claims 1-66 were rejected.

No claims are amended, canceled, or added by this current Reply. Arguments for the patentability of claims 1-66 are provided below.

24

"Claim Rejections" from Current Office Action

In the current and final Office Action, claims 1-66 were rejected.

Specifically, in paragraph #2 of the current Office Action, claims 1-66 were "rejected under 35 U.S.C. 102(e) as being anticipated by Maytal et al (U.S. Patent No 6,715,079)."

The rejection is provided at paragraphs #3 and #4 of the current Office Action. The rejection is reproduced below in its entirety:

3. As per claim 1, Halstead et al teach a method of providing an initial good to a computer wherein the initial digital good include a plurality of selectively arranged parts in an initial configuration and the initial digital good is configured as to not properly function with the computer receiving unique key data converting the initial good into a modified digital good using unique key data to selectively individualize the initial digital with at least one computer such that the plurality of selectively arrange parts in the modified digital good have been rearrange to have a substantially unique operative configuration tat properly functions with the computer and is different that the initial configuration and causing the at least one computer to run the modified digital good (*see columns 5 lines 56-6 line 5, 10 lines 16-52*).

4. As per claims 2-66, they disclose the same inventive concept as claim 1. Therefore, they are rejected under the same rationale.

(italicized emphasis present in current Office Action)

lee@hayes pllc 509-324-9256   25   MSI-0394US.M06

PAGE 27/44 * RCVD AT 8/12/2005 1:52:52 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2738300 * CSID:509 323 8979 * DURATION (mm-ss):09-46

1 This rejection thus cites to (i) column 5, line 56 to column 6, line 5 and (ii)

2 column 10, lines 16-52. The cited portions of columns 5 and 6 are part of the

3 "SUMMARY OF THE INVENTION" of Maytal et al. The cited portion of column

4 10 appears to relate to Figure 12 of Maytal et al.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MS1-0394US.M06

"Response to Arguments" from Current Office Action

The "Response to Arguments" section of the current Office Action includes paragraph #5 and reads as follows:

5. Applicant's arguments filed January 1st, 2005 have been fully considered but they are not persuasive.

a. Applicant argue that the prior art fail to teach an inventive such that the plurality of selectively arranged parts in the modified digital good have been rearranged to be operatively different. Examiner respectfully disagrees with Applicant's characterization of the prior art. Maytal a system for protecting soft modem software, the system including a local computer having a unique key, and an external computer. The external computer receives the key from the local computer when the local computer accesses the external computer in order to download the software. *The external computer embeds information related to the key in a customized version of the software, and downloads the customized version to the local computer. The system also includes means for altering operation of the customized version. The means for altering includes at least one of a group including the following means for stopping execution of the customized version, means for limiting the operation of the customized version to a predetermined service level, and means for changing data samples passing through the customized version in a magnitude and frequency which prevents useful communication. The software is written to accept at least one parameter, as is known in the art, the at least one parameter representing information related to the unique identifier. The software is then compiled with the at least one parameter as is known in the art, in order to produce the customized version*

lee@hayes px 509-324-9256

MSI-0394US.M06

(emphasis added). For the reason above, the rejection is maintained.

(italicized emphasis present in current Office Action)

The current Office Action as reproduced immediately above appears to be quoting from Maytal et al. at two locations. Specifically, it appears that the current Office Action is quoting from column 3, line 67 to column 4, line 16 and from column 11, lines 14-20.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

lee@hayes pllc   509-324-9256

28

MS1-0594US.M06

Cited Portions of Applied Art: Maytal et al. (U.S. Patent No. 6,715,079)

Column 3, line 66 to column 4, line 16 of Maytal et al. reads:

There is also provided, in accordance with a preferred embodiment of the present invention, a system for protecting soft modem software, the system including a local computer having a unique key, and an external computer. The external computer receives the key from the local computer when the local computer accesses the external computer in order to download the software. The external computer embeds information related to the key in a customized version of the software, and downloads the customized version to the local computer. The system also includes means for altering operation of the customized version. The means for altering includes at least one of a group including the following: means for stopping execution of the customized version, means for limiting the operation of the customized version to a predetermined service level, and means for changing data samples passing through the customized version in a magnitude and frequency which prevents useful communication.

Column 5, line 56 to column 6, line 5 of Maytal et al. reads:

There is also provided, in accordance with a preferred embodiment of the present invention, a method for protecting soft modem software to be downloaded from an external computer to a local computer having a unique key. The method includes the steps of sending the unique key to the external computer, generating a customized version of the modem software with which the key is associated, downloading the customized version to the local computer, reading the unique key from the local computer, and altering operation of the customized version if the read key is incompatible with the associated key. The alteration step includes at least one of the following steps: stopping execution of the customized version, limiting the operation of the customized version to a predetermined service level, and changing data samples passing through the customized version at a predefined magnitude and frequency.

Column 10, lines 16-52 of Maytal et al. reads:

In accordance with an additional preferred embodiment of the present invention, the key is provided from a unique identifier attached to the CPU of a PC, as shown in FIG. 12, to which reference is now made. This embodiment is suitable for the protection of soft modem software downloaded from the Internet, as shown in FIG. 12, to which reference is now made. FIG. 12 is a schematic illustration of a system for downloading customized software, in accordance with an additional preferred embodiment of the present invention. Two personal computers 90A and 90B are connected to an Internet site 92 in order to download software 94 from the site 92. Each PC 90 includes a unique identifier 96. In a preferred embodiment, the unique identifier 96 is provided along with a CPU 98 of the PC 90, as is known in the art. The personal computers 90A and 90B send the unique identifiers 96A and 96B, respectively to the internet site 92, where they are used to generate customized versions 100A and 100B of the software 94, respectively. The customized versions 100A and 100B of the software 94 are downloaded to the computers 90A and 90B, respectively, where the CPUs 98A and 98B, respectively, can access and execute them. In operation, the customized software 100 reads the unique identifier 96 from the CPU 98 and compares it with the key contained in the customized software 100. The customized software 100 then handles the key with any or a combination of the handling methods described hereinabove, with the result that the customized software 100 runs properly only on the PC 90 whose CPU 98 has the unique identifier 96. If, for example, the customized software 100A is copied to another PC 102, whose CPU 104 has a unique identifier 106, then in operation, the customized software 100A will read the unique identifier 106 and compare it with the key 96A contained in the customized software 100. Since the unique identifier 106 is incompatible with the key, the customized software 100 will behave as described hereinabove with regard to the key handling methods, and will not run properly on the PC 102.

Column 11, lines 14-20 of Maytal et al. reads:

In another preferred embodiment of the present invention, the software 94 is written to accept at least one parameter, as is known in the art, the at least one parameter representing information related to the unique identifier 96. The

software 94 is then compiled with the at least one parameter as is known in the art, in order to produce the customized version 100.

The following text is also present within Maytal et al., between the above-two quoted portions, from column 10, line 53 to column 11, line 13:

In a preferred embodiment of the present invention, the compiled object code of the software 94 is overwritten in at least one predetermined location with at least one number related to the unique identifier 96, in order to produce the customized version 100. For example, the at least one predetermined location might refer to the "1" in a computer statement:

```
if (key == 1) {
    . . . /* handle the key */
}
```

When the compiled object code is overwritten with the number related to the unique identifier 96, say the number 8439486765821, it is as if the computer statement was:

```
if (key == 8439486765821) {
    . . . /* handle the key */
}
```

In other words, the customized version 100 of the software 94 has information related to the unique identifier 96 embedded directly in the code.

31

<u>Arguments</u>

The following explanation of the requirements of an anticipation rejection is reproduced from MPEP §2131, page 2100-73, right column (Rev. 2, May 2004):

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

<u>I. At least independent claims 1, 18, 27, 34, 43, and 50 are allowable over the art of record because Maytal et al. does not describe rearranging a digital good.</u>

Specifically, at column 10, lines 30-33, Maytal et al. reads with reference to Figure 12: "The personal computers 90A and 90B send the unique identifiers 96A and 96B, respectively to the internet site 92, where they are used to generate customized versions 100A and 100B of the software 94, respectively."

Maytal et al. describes two approaches to generating the customized software versions. These two approaches are (1) overwriting compiled object code in at least one predetermined location with at least one number and (2) having the software accept at least one parameter representing information related to the unique identifier and then having the software compiled with the at least one parameter. The former is described at column 10, line 53 to column 11, line 13. The latter is described at

32

column 11, lines 14-20. Both of these portions of Maytal et al. are reproduced above.

Only the first approach, the overwriting of a location of compiled object code, is described with any specificity. The specifics entail merely inserting (including possible replacement of a preexisting number with) the unique identifier. This is apparent from the above-quoted pseudo-code of Maytal et al. at columns 10 and 11.

Maytal et al. is silent as to the specifics of the second approach, the providing of the parameter to the software prior to the compiling of the software. At most, it may be assumed that the source code of the software receives the parameter and then the source code is compiled to generate an object code customized version of the software having the parameter.

It is therefore apparent that in Maytal et al., with either approach, the customized versions 100A and 100B of the software 94 are *not* rearranged as compared to the original version of the software 94. There is neither description nor suggestion in Maytal et al. to perform any rearranging of the software 94 when generating the customized versions 100A and 100B.

Consequently, no art of record, either alone or in any combination, anticipates or renders obvious at least the following elements in conjunction with the other elements of their respective claims:

Claim 1: **converting the initial digital good into a modified digital good using the unique key data to selectively individualize the initial digital good for use with the computer, such that the plurality of selectively arranged *parts in the modified digital good have been rearranged* to have a substantially unique operative configuration**

MS1-0394US.M06

that properly functions with the computer and is different than the initial configuration.

Claim 18: converting the initial digital good into a modified digital good using the unique key data to selectively individualize the initial digital good for use with the at least one computer, such that the plurality of selectively arranged *parts in the modified digital good are rearranged* to have a substantially unique operative configuration that properly functions with the at least one computer and is different than the initial configuration.

Claim 27: converting the at least a portion using the unique key data to selectively individualize the portion, such that a modified portion of the digital good is produced *having the plurality of parts rearranged in a different configuration than the initial configuration.*

Claim 34: an individualizer configured to receive unique key data and at least a portion of an initial digital good that includes a plurality of selectively arranged parts in an initial configuration, and produce at least a portion of a modified digital good using the unique key data to selectively individualize the initial digital good for use with the host computer, and such that the plurality of selectively arranged *parts in the modified digital good are rearranged* to be operatively different in configuration than the initial configuration of the digital good.

Claim 43: an individualizer configured to receive the unique key data and at least a portion of an initial digital good having a plurality of selectively arranged parts in an initial configuration and output at

34

least a portion of a modified digital good using the unique key data to selectively individualize the initial digital good, such that in the modified digital good the plurality of selectively arranged *parts have been rearranged* to have an operatively different configuration than the initial configuration.

Claim 50: at least one individualizer configured to receive the unique key data and at least a portion of an initial digital good that includes a plurality of selectively arranged parts in an initial configuration, and output at least a portion of a modified digital good using the unique key data to selectively individualize the initial digital good, such that the plurality of selectively arranged *parts in the modified digital good have been rearranged* to be operatively different in configuration than the initial configuration of the digital good.

Moreover, because Maytal et al. neither describes nor teaches rearranging parts, Maytal et al. certainly does not describe or teach: a parts rearrangement such that the modification results in an operatively different/unique configuration.

In view of the above, it is respectfully submitted that independent claims 1, 18, 27, 34, 43, and 50 are allowable over the art of record.

II. "Altering operation of the customized version", as described in Maytal et al., does not correspond to rearranging, as claimed.

It appears that the current Office Action is drawing a correspondence between (i) "altering operation of the customized version" as described in Maytal et al. and (ii) the rearranging as claimed. It appears that the current Office Action is drawing this correspondence at paragraph #5 in the "Response to Arguments" section as reproduced above.

For example, the current Office Action quotes the following from Maytal et al.: "The means for altering includes at least one of a group including the following: means for stopping execution of the customized version, means for limiting the operation of the customized version to a predetermined service level, and means for changing data samples passing through the customized version in a magnitude and frequency which prevents useful communication."

These alteration means or steps do not involve rearrangement of the software. In fact, they involve changing the operation of the customized version of the software. More importantly, each "customized version" actually has its operation changed in exactly the same manner. In other words, if there is not a match of keys, one of the prescribed operation changes is implemented for each and every "customized version" of the software, regardless of key value.

Furthermore, the key is not used to effectuate the operation changes. On the contrary, the key is used merely to determine if the operation changes will be implemented. The actual or potential operation changes are identical from one "customized version" to the next regardless of the value of the key. Thus, the key is not used to effectuate operational changes to the customized software in Maytal et al.

Consequently, no art of record, either alone or in any combination, anticipates or renders obvious at least the following elements in conjunction with the other elements of their respective claims:

Claim 1: *converting the initial digital good into a modified digital good using the unique key data to selectively individualize the initial digital good for use with the computer*, such that the plurality of selectively arranged parts in the modified digital good have been rearranged to have a substantially unique operative configuration that properly functions with the computer and is different than the initial configuration.

Claim 18: *converting the initial digital good into a modified digital good using the unique key data to selectively individualize the initial digital good for use with the at least one computer*, such that the plurality of selectively arranged parts in the modified digital good are rearranged to have a substantially unique operative configuration that properly functions with the at least one computer and is different than the initial configuration.

Claim 27: *converting the at least a portion using the unique key data to selectively individualize the portion*, such that a modified portion of the digital good is produced having the plurality of parts rearranged in a different configuration than the initial configuration.

Claim 34: an individualizer configured to receive unique key data and at least a portion of an initial digital good that includes a plurality of selectively arranged parts in an initial configuration, and *produce at*

least a portion of a modified digital good using the unique key data to selectively individualize the initial digital good for use with the host computer, and such that the plurality of selectively arranged parts in the modified digital good are rearranged to be operatively different in configuration than the initial configuration of the digital good.

Claim 43: an individualizer configured to receive the unique key data and at least a portion of an initial digital good having a plurality of selectively arranged parts in an initial configuration and output at least a portion of a modified digital good using the unique key data to selectively individualize the initial digital good, such that in the modified digital good the plurality of selectively arranged parts have been rearranged to have an operatively different configuration than the initial configuration.

Claim 50: at least one individualizer configured to receive the unique key data and at least a portion of an initial digital good that includes a plurality of selectively arranged parts in an initial configuration, and output at least a portion of a modified digital good using the unique key data to selectively individualize the initial digital good, such that the plurality of selectively arranged parts in the modified digital good have been rearranged to be operatively different in configuration than the initial configuration of the digital good.

38

III. Multiple dependent claims are separately allowable over the art of record.

    A. Certain dependent claims are allowable over the art of record because Maytal et al. does not describe any modification/conversion occurring at a host/destination/consumer computer.

With reference to (i) the paragraph beginning at column 10, line 16 and (ii) Figure 12 of Maytal et al., Maytal et al. only describes custom software 100 being generated at an internet site 92. Internet site 92 is distant from PCs 90, which is where customized software 100 is run.

Accordingly, Maytal et al. does not describe (or teach) conversion or modification of a digital good at a host/destination/consumer computer. Consequently, it is respectfully submitted that at least dependent claims 3, 20, 34/37/38, and 54/55 are separately allowable. Other claims also recite elements relating to digital good conversion/modification at a host/destination/consumer computer and are thus likewise allowable over the art of record.

B.   Certain dependent claims are allowable over the art of record because Maytal et al. does not describe any dividing, splitting, or otherwise handling of multiple portions of a digital good.

With reference to (i) the paragraph beginning at column 10, line 16 and (ii) Figure 12 of Maytal et al., Maytal et al. only describes customizing and otherwise utilizing a single piece of homogenous software both in terms of the download software 94 and the customized versions 100.

Accordingly, Maytal et al. does not describe (or teach) dividing, splitting, or otherwise handling two portions of a digital good. Consequently, it is respectfully submitted that at least dependent claims 7/10, 22, 31, 38, 45/47, and 56/59 are separately allowable. Other claims also recite elements relating to a digital good being divided, split, or otherwise handled in at least two portions and are thus likewise allowable over the art of record.

leo@hayes pa. sow zm-ists

40

MS1-0394US.M06

C. Other dependent claims are also separately allowable.

There are still other additional reasons for the separate allowability of certain dependent claims over the art of record. For example, dependent claims such as claims 5, 30, 46, 57, etc. recite cryptographic features not found in Maytal et al.

Generally, reasons for the allowability of independent claims 1, 18, 27, 34, 43, and 50 have been provided above. Claims 2-17, 19-26, 28-33, 35-42, 44-49, and 51-66 depend directly or indirectly from independent claims 1, 18, 27, 34, 43, and 50, respectively. Although each dependent claim also includes additional element(s) militating toward allowability (some of which are individually noted and addressed herein above), all dependent claims are also allowable at least for the reasons given above in connection with their respective independent claims.

41

CONCLUSION

It is respectfully submitted that all of the pending claims 1-66 are allowable, and prompt action to that end is hereby requested.

Additionally, if a Notice of Allowance is not to be forthcoming, Applicant's undersigned representative hereby respectfully requests a telephonic interview with the Examiner prior to issuance of an Advisory Action.

Respectfully Submitted,

Dated: ___8/12/2005___   By: _Keith W. Saunders_

Keith W. Saunders
Reg. No. 41,462
(509) 324-9256 ext. 238

42

MS1-0394US.M06